

OILS AND FATS

27535. Olive oil. (F.D.C. No. 45860. S. Nos. 97-020 R, 97-581 R.)

QUANTITY: 89 cases, 12 cans each, and 16 cases, 6 cans each, at Buffalo, N.Y., in possession of J. & J. Limeri Co., Inc.

SHIPPED: Prior to 11-19-60, from Spain.

LABEL IN PART: (Can) "Net Contents One Quart Villa Bella Brand 100% Pure Imported Olive Oil Linda Food Products Co., Buffalo, N.Y." and "Contents One Gallon Net 100% Pure Imported Olive Oil Distributed by La Tosca Food Products Co., Buffalo, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short in volume. The article was repacked by the dealer from bulk drums which had been shipped as described above.

LIBELED: 7-6-61, W. Dist. N.Y.

CHARGE: 403(e) (2)—while held for sale, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: J. & J. Limeri Co., Inc., claimant, filed a motion for dismissal of the libel and on 9-11-61, the court handed down the following decision in denial of such motion:

HENDERSON, *District Judge*: "The intervenor has challenged the Government's libel on the ground that this court has no jurisdiction of the claimed offense where the alleged misbranding consisted of an inaccurate statement of the net weight of the product which was packaged after having been imported into the State of New York. The intervenor's motion to dismiss will be denied, in reliance upon *United States v. 40 Cases, etc.*, 289 F. 2d 343 (2d Cir. 1961). Libellant's application for a decree condemning the articles and granting costs of this proceeding will be granted.

"In accordance with Title 21, U.S. Code, Section 334(d), the intervenor will be permitted to repossess the articles indicated in the title of this action after compliance with that section. A bond, as required by the statute, will be sufficient if made in the amount of \$500.00.

"Submit decree upon consent as to form or upon five days' notice."

On 9-27-61, the claimant having consented, the court entered a decree of condemnation and ordered that the product be released under bond for repacking.

SPICES, FLAVORS, AND SEASONING MATERIALS

27536. Black pepper. (F.D.C. No. 46150. S. No. 94-827 R.)

QUANTITY: 16 cases, 24 cans each, at Royal Oak, Mich.

SHIPPED: 5-22-58, from Chicago, Ill., by La Salle Mfg. Co.

LABEL IN PART: (Can) "Florence Nightingale Net Wt. 4 Oz. Pure Ground Black Pepper La Salle Mfg. Co. Grinders, Importers, Packers, Chicago, Illinois."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 8-3-61, E. Dist. Mich.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 9-15-61. Default—destruction.